

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
February 5, 2003

ITEM:	21
SUBJECT:	A Resolution modifying the Regional Board's Waiver Policy for consistency with recent modifications to the United States Environmental Protection Rule for Confined Animal Feeding Operations (<i>Christina Arias</i>)
PURPOSE:	Consider adoption of Tentative Resolution No. R09-2003-0060 to modify the Waiver Policy that the Regional Board adopted as a Basin Plan amendment on September 11, 2002.
PUBLIC NOTICE:	<p>Public notification for Tentative Resolution No. R09-2003-0060 was via the Regional Board Agenda Notice for the February 5, 2003 meeting. The Regional Board Agenda Notice was mailed on January 17, 2003 and has been posted on the Regional Board's web page.</p> <p>In considering this matter the Regional Board will be relying on the public noticing process for and the resulting comments and testimony received prior to and during the September 11, 2002 Public Hearing, following which the Waiver Policy was re-issued. The public noticing process for the September 11, 2002 action consisted of the following.</p> <ul style="list-style-type: none">• A public workshop/CEQA scoping meeting on the proposed Basin Plan amendment, noticed by mail on April 30, 2002 and conducted by the Regional Board on May 20, 2002.• A Public Hearing notice and CEQA Notice of Filing, published in the Orange County Register and Riverside Press Enterprise on July 27, 2002, and the San Diego Union Tribune on July 28, 2002. These notices as well as copies of the proposed Basin Plan amendment, staff report and CEQA checklist were mailed to interested persons on July 26, 2002. These items were also available for public review at the Regional Board office beginning July 26, 2002 and made available on the Regional Board website. <p>These actions served as the 45-day official public notification of</p>

	the Basin Plan amendment action as required by Title 40, Section 25.5 of the Code of Federal Regulations (40 CFR 25.5) and CEQA regulations (23 California Code of Regulations Section 3777).
DISCUSSION:	<p>Section 13269 of the California Water Code gives regional boards the authority to conditionally waive adoption of waste discharge requirements (WDRs) for specific discharges and specific types of discharges where such waivers are not against the public interest. The list of discharges for which this Regional Board has waived WDRs, and associated waiver conditions, is included in Chapter 4 of the Basin Plan.</p> <p>Subdivision (b) of Water Code Section 13269 resulted in Regional Board's previously adopted waivers expiring on January 1, 2003, absent Board action to renew or re-issue them. The Regional Board re-issued their Waiver Policy on September 11, 2002, by adopting an amendment to the Basin Plan. The re-issued Waiver Policy described types of animal feeding operations for which WDRs would be waived and the conditions associated with those waivers.</p> <p>On December 15, 2002, the Administrator of the United States Environmental Protection Agency signed a Final Rule modifying the federal regulations that govern Confined Animal Feeding Operations. The Administrator's action extended the definition of animal feeding operations that would be defined as "Confined Animal Feeding Operations" and thereby require NPDES permits. This creates a conflict between the Waiver Policy and the federal regulations in that some facilities covered under the Regional Board's Waiver Policy now require NPDES permits.</p> <p>Tentative Resolution No. R09-2003-0060 would, if adopted, modify the Regional Board's Waiver Policy to remove the inconsistency with the new federal regulations. This would not be a substantial change from the Board's September 11, 2002 action and would not necessitate re-doing the notification process and CEQA determination that supported this action.</p>
LEGAL CONCERNS:	None have been identified.
SUPPORTING DOCUMENTS:	<p>Attachment 1: Basin Plan Table 4-4 with proposed changes shown in redline/strikeout.</p> <p>Attachment 2: Tentative Resolution No. R9-2003-0060 and Attachment A thereto.</p>

RECOMMENDATION(S):	Adopt Tentative Resolution No. R09-2003-0060.